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C O N F I D E N T I A L SECTION 01 OF 02 QUITO 002678

SIPDIS

SENSITIVE

STATE FOR INL/C - W. MCKENNA, S. PETERSON; DOJ FOR PAUL JOSEPH; ICE FOR GABRIEL GARCIA; DOJ FOR WILLIAM HO-GONZALEZ

E.O. 12958: DECL: 11/21/2015

TAGS: [KCRM](#) [PHUM](#) [PREL](#) [SMIG](#) [PBTS](#) [PGOV](#)

SUBJECT: ECUADOR TO COOPERATE ON ANTI-SMUGGLING CASES

Classified By: Rosemary Macray for reasons 1.4 (b) and (d)

11. (U) Summary: Ecuador's top officials committed to working with U.S. law enforcement authorities to slow illegal immigration and put alien smugglers behind bars during a November 16-18 visit by DOJ prosecutors and DHS agents. The visit came just days after Ecuadorian police arrested a couple alleged to be responsible for the August drowning deaths of nearly 104 intending immigrants off Colombia. The GOE leaders are willing to allow the alleged human traffickers to be brought to the United States, and offered to share more evidence in smuggling investigations and bolster the budget for smuggling-related law enforcement. The Embassy concurs with legal efforts to try the smugglers in the U.S. via travel through third country, given the weak justice system here. End Summary.

12. (U) The arrest of human smugglers Milton Bautista Guzman and his wife, Patricia Pesantez, in Cuenca on November 14 formed the backdrop for the talks. Bautista is alleged to be the organizer of the tragedy at sea when an overloaded migrant ship sank near Galapagos on August 13, 2005, killing 104 migrants. U.S. and Ecuadorian investigators spent most of November 16 taking testimony from survivors and from family members of the drowning victims.

13. (C) Presidential spokesman Jose Toledo, Attorney General Cecilia Armas and the Presidential Advisor Jose Apolo acknowledged the possibility that under Ecuador's incomplete legislation and corrupt judicial system, the smugglers could well go free. Corruption and threats against judges and prosecutors have thwarted justice in the past.

14. (C) DOJ attorneys offered to try the pair in the U.S. where, if convicted, they would face stiff sentences. Because Ecuador's constitution does not allow its nationals to be extradited, U.S. and Ecuadorian officials discussed how to legally bring the couple to the United States. USG officials suggested that the GOE send the two to Guatemala, where they would be subpoenaed to testify in a pending smuggling case. After taking their testimony, the GOG would then expel them to the United States to face charges for the drownings. GOE officials agreed to the plan enthusiastically, and Presidential advisors Apolo and Toledo said they would also recommend to the president a constitutional change to permit future extradition of Ecuadorians.

15. (SBU) President Palacio is very interested in combating alien smuggling and TIP in Ecuador, Toledo said, noting that he would prepare a report for the president and convene a high-level working group on the smuggling issue (another interagency group on Trafficking in Persons already exists). A former journalist, Toledo said he would work to keep smuggling cases like the August drowning before the public, to create pressure for legal authorities to follow through on prosecutions here.

16. (SBU) AG Armas complained of a lack of funding for prosecutors, especially in Guayas province, where most smuggling cases occur. U.S. and Ecuadorian authorities also spoke of the need to expand a special vetted unit dedicated to smuggling and human trafficking cases. Toledo said he would pursue needed money through the president's office.

Comment

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17. (C) DOJ and DHS visitors left Quito pleased with the GOE's willingness to cooperate. Prospects for a change to the constitution to permit extradition of Ecuadorian nationals are low, and a move in Congress to stiffen penalties for human smugglers has been sidelined during the recent confrontation with the president over his proposed referendum. Given the importance of effective prosecution of the Bautista pair, we concur with the plan to prosecute in the U.S. However, if Washington agencies authorize the plan and the government of Guatemala agrees to deport Bautista and his wife to the U.S., we should be prepared to counter public criticism here and possibly elsewhere. To do so, we should emphasize the gravity of the alleged crime (104 innocent

deaths), and the useful cooperation between Ecuador, Guatemala and the U.S. to prevent future smuggling tragedies.

We should not/not discuss GOE concerns that these traffickers would not face justice in Ecuador, which would be embarrassing to the GOE and could generate a defensive reaction.

18. (SBU) We have already proposed USG support to the anti-smuggling/TIP vetted unit, which has received NAS funding in the past and is being considered for G/TIP support. We are convinced that only such a carefully screened unit can effectively investigate sensitive smuggling and TIP operations. The unit currently operates with DHS guidance, although coordination would be improved with the assignment of permanent DHS staff in Quito and Guayaquil. In September, National Police Chief Jose Vinueza requested NAS support for expansion of the special unit to Guayaquil and Cuenca. While awaiting a response on funding from G/TIP, we will encourage the GOE to provide its own funding for the special unit.

JEWELL